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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/649,032 | 08/27/2003 | James A. Haigh | 0738.3039.005 | 5134 |
| 23399 | 7590 | 08/24/2004 | EXAMINER | |
| REISING, ETHINGTON, BARNES, KISSELLE, P.C. | | | | COURSON, TANIA C |
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| | | ART UNIT | | PAPER NUMBER |
| | | 2859 | | |

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/649,032 | HAIGH ET AL. | |
| | Examiner | Art Unit | |
| | Tania C. Courson | 2859 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-3 and 15-20 is/are rejected.
- 7) Claim(s) 4-14 and 21-24 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 August 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>27AUG03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the crossing arm being attached to the hinge bracket so as to be storable above or below the bumper” as stated in lines 4-5 of claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 4-14 and 21-24 are objected to under 37 CFR 1.75(c) as being in improper form. See MPEP § 608.01(n). Accordingly, the claims 4-14 and 21-24 have not been further treated on the merits.

Claim Rejections - 35 USC § 103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Freeman (US 5,199,754).

Freeman discloses in Figures 1-4, a safety barrier for a school bus comprising:

- a) a crossing arm (Fig. 1, swing barrier 36) that is attached to an actuator (Fig. 2, motor 13) by a hinge bracket (Fig. 3, drive arm 20, link 21, driven arm 23) that includes upper and lower pivot members of the actuator (Fig. 3, cam wheel 16 and sleeve 33), the crossing arm being attached to the hinge bracket so as to be storable above or below the bumper (Fig. 1) and being moveable by the actuator to a deployed position generally perpendicular to the bumper (Fig. 2).

With respect to the preamble of the claim 1: the preamble of the claim has not been given any patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self – contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Lamparter (US 6,477978 B2).

Freeman discloses safety barrier for a school bus, as stated above in paragraph 4.

Freeman further discloses wherein the crossing arm comprises a rod that is attached to the hinge bracket (Fig. 1, swing barrier 36) and wherein the hinge bracket is U-shaped with substantially parallel, axially spaced legs attached to the upper and lower pivot members (Fig. 3, drive arm 20, link 21, driven arm 23), respectively and the crossing arm is attached to a cross-over link that is attached to one of the legs of the bracket in cantilever fashion (Fig. 2, pivot shaft 25).

Freeman does not disclose a flap that is pivotally attached to a rod so that the flap is stored in a substantially horizontal position and deployed in a substantially vertical position.

Lamparter teaches a crossing arm assembly that consists of a flap (Fig. 5, flap 36) that is pivotally attached to a rod (Fig. 3, rod 30). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the safety barrier for a school bus of Freeman, so as to include a flap, as taught by Lamparter, so as to provide a means for increasing visibility of the crossing arm during use of the device.

Once the device is modified, as stated above, the following will be met:

- a) a flap that is attached to a rod so that the flap is stored in a substantially horizontal position and deployed in a substantially vertical position.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Cooper (US 3,998,285).

Freeman discloses in Figures 1-4, a safety barrier for a school bus comprising:

- a) an actuator (Fig. 2, motor 13) and a crossing arm (Fig. 1, swing barrier 36), the crossing arm being attached to the actuator by a hinge bracket (Fig. 3, drive arm 20, link 21, driven arm 23) that includes upper and lower pivot members of the actuator (Fig. 3, cam wheel 16 and sleeve 33), the crossing arm being attached to the hinge bracket so as to be stored above the bumper (Fig. 1) and being moveable by the actuator to a deployed position generally perpendicular to the bumper (Fig. 1)

Freeman does not disclose an actuator being located behind a bumper.

Cooper teaches a vehicle arm assembly that consists of an actuator being located behind a bumper (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the safety barrier for a school bus of Freeman, so as to include an actuator being located behind a bumper, as

taught by Cooper, so as to provide a means for protecting the vehicle arm assembly from damage when not in use.

8. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman and Cooper in view of Lamparter.

Freeman and Cooper disclose safety barrier for a school bus, as stated above in paragraph 7.

Freeman and Cooper further discloses wherein the crossing arm comprises a rod that is attached to the hinge bracket (Fig. 1, swing barrier 36) and wherein the hinge bracket is U-shaped with substantially parallel, axially spaced legs attached to the upper and lower pivot members (Fig. 3, drive arm 20, link 21, driven arm 23), respectively and the crossing arm is attached to a cross-over link that is attached to one of the legs of the bracket in cantilever fashion (Fig. 2, pivot shaft 25) and that extends over the top of the bumper (Fig. 2), the cross-over link being attached to an end of the rod of the crossing arm (Fig. 2), wherein the hinge bracket includes a generally L-shaped extension that includes a rod that pivots about an axis of the actuator (Fig. 2), and that supports the cross-over link in cantilever fashion (Fig. 2), wherein the cross-over link is an internal coplanar extension of one of the spaced legs (Fig. 2) and wherein the cross-over link is at an angle with respect to the upper leg of the hinge bracket (Fig. 3).

Freeman and Cooper do not disclose a flap that is pivotally attached to a rod so that the flap is stored in a substantially horizontal position and deployed in a substantially vertical position.

Lamparter teaches a crossing arm assembly that consists of a flap (Fig. 5, flap 36) that is pivotally attached to a rod (Fig. 3, rod 30). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the safety barrier for a school bus of Freeman and Cooper, so as to include a flap, as taught by Lamparter, so as to provide a means for increasing visibility of the crossing arm during use of the device.

Once the device is modified, as stated above, the following will be met:

- a) a flap that is attached to a rod so that the flap is stored in a substantially horizontal position and deployed in a substantially vertical position.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a barrier device:

Ellefson (US 6,652,182 B1)

Conner (US 4,734,955)

Hiatt et al. (US 3,788,268)

Martin (US 3,675,785)

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
August 18, 2004